



State of Texas  
House of Representatives  
District 91

**BILL G. CARTER**

ID# 14830

MBJ

**Committees:**

- State, Federal and International Relations
- Legislative Criminal Justice Board

October 29, 1991

**Chairman:**

- Public Safety Committee
- Tarrant County Delegation

The Honorable Dan Morales  
Attorney General  
State of Texas  
P.O. Box 12548  
Austin, Texas 78711

RQ-300

Dear General Morales:

I am seeking an Attorney General's Opinion at the request of the City of Arlington. The City submits the following question: Do Tax Code sections 154.101(h) and 155.041(h) preempt the licensing provisions of City of Arlington Ordinance No. 91-15?

On February 5, 1991, the City of Arlington enacted Ordinance No. 91-15, which is codified as the Code of the City of Arlington, "Health" Chapter, Article XI. The effective date of the ordinance was August 1, 1991. It included provisions to license tobacco products retailers. A copy of the ordinance is attached. On June 7, 1991, the Governor approved Senate Bill 689, which became effective that same date. The bill added a subsection (h) to Tax Code sections 154.101 and 155.041. These subsections state, "Permits for engaging in business as a [cigarette or tobacco products] distributor, wholesaler, bonded agent, or retailer shall be governed exclusively by the provisions of this code." The City of Arlington Health Department has issued numerous tobacco retailer licenses, but has recently placed a moratorium on issuing licenses, pending your opinion. There is no established administrative construction of the Tax Code Provisions in question.

A copy of the City of Arlington's request for this opinion is also attached.

Thank you for your assistance in resolving this issue.

Sincerely,

Bill G. Carter  
Chairman  
Public Safety Committee

**District Office:**

7001 Grapevine Hwy., Suite 344  
Ft. Worth, Texas 76180  
817-595-0072

**Austin Office:**

P.O. Box 2910  
Austin, Texas 78763-2910  
512-463-0482